

# Order

Entered: September 23, 2004

Michigan Supreme Court  
Lansing, Michigan

Maura D. Corrigan,  
Chief Justice

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Clifford W. Taylor  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

ADM File No. 2003-65

Proposed Amendment of  
Rules 6.425, 7.210, and 8.119  
of the Michigan Court Rules

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On order of the Court, this is to advise that the Court is considering amendments of Rules 6.425, 7.210, and 8.119 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposals or to suggest alternatives. The Court welcomes the views of all. This matter will be considered at a public hearing. The notices and agendas for public hearings are posted on the Court's website at [www.courts.michigan.gov/supremecourt](http://www.courts.michigan.gov/supremecourt).

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

Rule 6.425 Sentencing; Appointment of Appellate Counsel

(A)-(E) [Unchanged.]

(F) Appointment of Lawyer; Trial Court Responsibilities in Connection with Appeal.

(1) [Unchanged.]

(2) Order to Prepare Transcript. The appointment order also must

(a) direct the court reporter to prepare and file, within the time limits specified in MCR 7.210,

(i) the trial or plea proceeding transcript,

(ii) the sentencing transcript, and

- (iii) such transcripts of other proceedings, not previously transcribed, that the court directs or the parties request, and

- (b) provide for the payment of the reporter's fees.

The court must promptly serve a copy of the order on the prosecutor, the defendant, the appointed lawyer, the court reporter, and the Michigan Appellate Assigned Counsel System. If the appointed lawyer timely requests additional transcripts, the trial court shall order such transcripts within 14 days after receiving the request.

- (3) [Unchanged.]

#### Rule 7.210 Record on Appeal.

- (A) [Unchanged.]

- (B) Transcript.

- (1)-(2) [Unchanged.]

- (3) Duties of Court Reporter or Recorder.

- (a) Certificate. Within 7 days after a transcript is ordered by a party or the court, the court reporter or recorder shall furnish a certificate stating:

- (i) that the transcript has been ordered, that and payment for it the transcript has been made and or secured, and that it will be filed as soon as possible or has already been filed, and the estimated number of pages for each of the proceedings requested;

- (ii) as to each proceeding requested, whether the court reporter or recorder filing the certificate recorded the proceeding; and if not,

- (iii) the name and certification number of the court reporter or recorder responsible for the transcript of that

proceeding.

(b)-(g) [Unchanged.]

(C)-(I) [Unchanged.]

#### Rule 8.119 Court Records and Reports; Duties of Clerks

(A)-(C) [Unchanged.]

(D) Records Kept by the Clerk. [Unchanged.]

(1) Indexes and Case Files. [Unchanged.]

(a)-(b) [Unchanged.]

(c) Register of Actions. The clerk shall keep a case history of each case, known as a register of actions. The register of actions shall contain both pre- and post-judgment information. When a case is commenced, a register of actions form shall be created. The case identification information in the alphabetical index shall be entered on the register of actions. In addition, the following shall be noted chronologically on the register of actions as it pertains to the case:

(i) the offense (if one);

(ii) the judge assigned to the case;

(iii) the fees paid;

(iv) the date and title of each filed document;

(v) the date process was issued and returned, as well as the date of service;

(vi) the date of each event and type and result of action;

(vii) the date of scheduled trials, hearings, and all other appearances or reviews, including a notation indicating

whether the proceedings were heard on the record and the name and certification number of the court reporter or recorder present;

- (viii) the orders, judgments, and verdicts;
- (ix) the judge at adjudication and disposition;
- (x) the date of adjudication and disposition; and
- (xi) the manner of adjudication and disposition.

Each notation shall be brief, but shall show the nature of each paper filed, each order or judgment of the court, and the returns showing execution. Each notation shall be dated with not only the date of filing, but with the date of entry and shall indicate the person recording the action.

(d) [Unchanged.]

(2)-(4)[Unchanged.]

(E)-(G) [Unchanged.]

Staff Comment: The proposed amendments were recommended by the Court of Appeals Record Production Work Group.

The proposed amendment of MCR 6.425(F) would expedite the ordering of additional transcripts in criminal appeals that have been requested by appointed counsel by requiring trial courts to order additional transcripts within 14 days after receiving timely request.

Although the rules contain no specific deadline within which counsel is required to order additional transcripts, the Court of Appeals has always applied a 28-day guideline to ensure that appellate attorneys are quickly reviewing their orders of appointment to determine whether additional transcripts are necessary. Court of Appeals Internal Operating Procedure 7.204(C)(2) states that appointed counsel should review the order shortly after appointment to confirm that all necessary transcripts were ordered. The same concept is stated in IOP 7.210(B)(1)-1. The 28-day guideline is stated in IOP 7.210(B)(1)-2.

The proposed amendment of MCR 7.210(B)(3)(a) would enhance an attorney's ability to discover and order missing transcripts in all appeals by requiring the court reporter or recorder to specifically articulate on the certificate for each proceeding requested: the estimated length of the transcript ordered and the identity of the court reporter or recorder responsible for the transcript if it is not the individual filing the certificate.

The proposed amendment of MCR 8.119(D)(1)(c) would also expedite the ordering of transcripts in all appeals by requiring the circuit court's register of actions to include a notation as to whether a hearing was held on the record, and the name and certification number of the court reporter or recorder responsible for transcribing the hearing. The proposed subrule would also be divided for the ease of the reader.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by January 1, 2005, at P.O. Box 30052, Lansing, MI 48909, or MSC\_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2003-65. Your comments and the comments of others will be posted at [www.courts.mi.gov/supremecourt/resources/administrative/index.htm](http://www.courts.mi.gov/supremecourt/resources/administrative/index.htm).



I, CORBIN R. DAVIS, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 23, 2004 Corbin R. Davis

Clerk